

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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SPHEYR, INC.,	:	
	:	
Plaintiff,	:	_____Civ._____ ()
	:	
- against -	:	<u>COMPLAINT</u>
	:	
BROOKLYN MINDS PSYCHIATRY P.C.,	:	
	:	
Defendant.	:	
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Plaintiff Sphey, Inc. ("Sphey"), by its attorneys, Tobias Law Firm, P.C., complaining of the defendant, Brooklyn Minds Psychiatry P.C. ("Brooklyn"), for recovery on a promissory note, alleges:

Nature of the Action.

1. This is an action to recover amounts due on a promissory note made by Brooklyn and given to Sphey for which note Sphey paid Brooklyn four hundred and fifty-one thousand dollars and zero cents (\$451,000.00). The Note was accelerated according to its terms due to a change of control of Brooklyn, and Sphey made a demand for payment of the accelerated note. No payment has been made on the note after acceleration and demand. Sphey is not aware of any defense to payment, or of any valid reason Brooklyn has failed to repay the note, and seeks judgment in the sum of four-hundred sixty-four thousand, four-hundred forty-four dollars and fifty-three cents (\$464,444.53), with interest at the agreed upon default rate of interest of 10% per

annum from September 11, 2022 to the date of collection, its costs, disbursements and attorneys' fees, the amount of which attorney's fees, if necessary, can be reserved and determined in a separate trial or hearing.

The Parties.

2. Spheyrr is a corporation organized under the laws of the State of Delaware, with a principal place of business in Chester County, State of Pennsylvania.

3. Upon information and belief, Brooklyn is a professional service corporation organized under the laws of the State of New York, with a principal place of business in New York County, State of New York.

Jurisdiction and Venue.

4. Jurisdiction of this court is based on diversity of citizenship in accordance with 28 U.S.C. §1332.

5. The amount in controversy exceeds \$75,000.00, exclusive of interest and costs.

6. Venue is proper in this court pursuant to the provisions of 28 U.S.C. §1392(a) because Brooklyn has its principal place of business in this District.

Factual Allegations.

7. On or about September 28, 2021, Brooklyn executed and delivered a promissory note dated September 28, 2021 with specified interest in which note Brooklyn promised to pay to the order of Spheyrr, as "Payee", in the aggregate sum of four-

hundred fifty-one thousand dollars and zero cents (\$451,000.00) ("The Note"). A copy of the Note is attached as Exhibit 1, and incorporated herein by reference.

8. On or about September 28, 2021, Spheyr had paid Brooklyn the aggregate sum of four-hundred fifty-one thousand dollars and zero cents (\$451,000.00).

9. As reflected in the initial paragraph of the Note, it was to accrue interest at the rate of 6.5% per annum from the date of the Note, and the unpaid balance is to be compounded on an annual basis. Ex. 1.

10. Under Paragraph 6 of the Note, upon a default of the Note, a default rate of interest of 10% per annum from the date of default applies to the unpaid principal balance of the Note. Ex. 1, ¶6.

11. Under Paragraph 1 of the Note, the unpaid principal balance of the Note, together with all accrued and unpaid interest thereof, as well as all fees and costs associated thereof were not to be due and payable (unless earlier accelerated pursuant to Section 4 of the Note) prior to the three (3) year anniversary of the Note. Ex. 1, ¶1.

12. According to paragraph 4 (iii) of the Note, a default occurs with a Change of Control of Brooklyn. Ex. 1, ¶4 (iii).

13. Spheyr is now, and has been since on or about September 28, 2021, the Payee, owner and holder of the Note.

14. On March 28, 2022 Spheyr received two ten thousand-dollar (\$10,000.00) payments on the Note (the "Prepayment")

15. Prior to receiving the Prepayments on March 28, 2022, there were no fees, costs or penalties outstanding on the Note but there was fourteen-thousand, eight-hundred and fifty-nine dollars and twenty cents (\$14,859.20) of accrued interest on the Note.

16. Pursuant to paragraph 3 of the Note, prepayments on the Note shall be applied first to all fees, costs and penalties associated with the Note (if any), then to the accrued interest, and finally to principal.

17. Under paragraph 3 of the Note, this Prepayment was to be applied first to the interest accrued through March 28, 2022 of fourteen thousand eight-hundred and fifty-nine dollars and twenty cent (\$14,859.20), and the balance of five thousand one hundred-forty dollars and eighty cents (\$5,140.80) to the principal balance of four-hundred fifty-one thousand dollars and zero cents (\$451,000.00), leaving an unpaid principal balance of four-hundred forty-five thousand, eight hundred fifty-nine dollars and twenty cents (\$445,859.20) as of March 28, 2022.

18. As of April 8, 2022 there was a Change of Control of Brooklyn.

19. Therefore, pursuant to paragraph 4 of the Note, as of April 8, 2022, Brooklyn was in default on the Note. Ex. 1, ¶4.

20. Due to Brooklyn's default on the Note as of April 8, 2022, the entire four-hundred forty-five thousand, eight hundred fifty-nine dollars and twenty cents (\$445,589.20) unpaid principal balance of the Note, and the accrued but unpaid interest to that date of eight-hundred seventy-three dollars and fifty-one cents (\$873.51) (representing interest from March 28, 2022 to April 8, 2022 at 6.5% per annum), became immediately due and payable to Spheyr. Ex. 1, ¶6.

21. Based on this default, under paragraph 6 of the Note, as of April 8, 2022, the default rate of interest of 10% per annum applied to the four-hundred forty-five thousand, five-hundred and eighty-nine dollars and twenty cents (\$445,589.20) unpaid principal balance of the Note. Ex. 1, ¶6.

22. Paragraph 9 of the Note states that if the Note is placed for collection in addition to all principal, interest, and other amounts due on the Note, Brooklyn is responsible for Spheyr's costs, expenses and attorneys' fees incurred in collection. Ex. 1, ¶9.

23. As a result of Brooklyn's default, the Note has been placed in Tobias Law Firm, P.C.'s ("TLF") hands for collection.

24. In accordance with paragraph 9 of the Note, since the Note has been placed for collection, in addition to all principal, interest, and other amounts due on the Note, Brooklyn is responsible for Spheyr's costs, expenses and attorneys' fees incurred in collection. Ex. 1, ¶9.

25. As of August 10, 2022 a "default" had occurred under paragraph 4 of the Note as of April 8, 2022, and Spheyr had not received any further payment of the unpaid principal or interest on the Note since March 28, 2022.

26. Therefore, on August 11, 2022, by letter dated August 11, 2022, TLF, Spheyr's attorneys, confirmed with Brooklyn, Brooklyn's default on the Note, and Spheyr's acceleration of the Note in accordance with the terms of the Note (the "Demand Letter"). A copy of the Demand Letter is attached as Exhibit 2, and incorporated by reference herein.

27. In the Demand Letter, TLF made demand on Brooklyn, "As Attorneys for Spheyr, Inc.," for payment to it on or before August 18, 2022 of four-hundred sixty-one thousand, seven-hundred fifty-six dollars and ninety-six cents (\$461,756.96).

28. This four-hundred sixty-one thousand, seven-hundred fifty-six dollars and ninety-six cents (\$461,756.96) represents the unpaid principal amount of the Note of four-hundred forty-five thousand, eight-hundred fifty-nine dollars and twenty cents (\$445,859.20) as of March 28, 2022, plus the eight-hundred seventy-three dollars and fifty-one cents (\$873.51) of accrued interest from March 28, 2022 to April 8, 2022 at the rate of 6.5% per annum, and fifteen thousand, twenty-four dollars and forty-five cents (\$15,024.45) of accrued interest due to Spheyr from April 8, 2022 through August 10, 2022 at the default rate of 10% per annum.

29. No payment has been made by Brooklyn to Spheyr in response to the Demand Letter, or in any respect since March 28, 2022.

30. Therefore, Spheyr seeks judgment on the Note against Brooklyn of four-hundred sixty-four thousand four-hundred forty-four dollars and fifty-three cents (\$464,444.53), which amount represents the four-hundred sixty-one thousand, seven-hundred and fifty-six dollars and ninety-six cents (\$461,756.96) demanded in the Demand Letter (and \$.20), plus two-thousand, six-hundred eighty-seven dollars and thirty-seven cents (\$2,687.37) of additional interest from August 11, 2022 to September 11, 2022 at the default rate of 10%, and further seeks interest from September 11, 2022 to the date of collection at the default rate, and Spheyr's costs, expenses and legal fees incurred in collection.

As And For Spheyr's Cause of Action Against Brooklyn.

31. Spheyr repeats and realleges each and every allegation contained in paragraphs 1 through 30 of this complaint as though hereby set forth at length herein.

32. Brooklyn has failed to comply with the terms of the Note by failing to pay TLF four-hundred sixty-one thousand, seven-hundred fifty-six dollars and ninety-six cents (\$461,756.96) as attorney on Spheyr's behalf on or before August 18, 2022, as demanded in the Demand Letter.

33. Spheyr has been damaged as a result of Brooklyn's failure to pay the Note as agreed.

34. It has been and is necessary for Spheyr to institute this action for collection of the amounts due under the Note and Spheyr has been compelled to and has employed counsel to send the Demand Letter and institute and prosecute this action, and is entitled to its attorney's fee for those efforts.


35. By reason of the foregoing, there is now due and owing to Spheyr from Brooklyn on the Note the sum of four-hundred sixty-four thousand, four-hundred forty-four dollars and fifty-three cents (\$464,444.53), with interest at the default rate of 10% from September 11, 2022, plus Spheyr's costs, expenses, and attorney's fees incurred in collection.

WHEREFORE, Spheyr demands judgment on its cause of action of this complaint against Brooklyn in favor of Spheyr in the sum of four-hundred sixty-four thousand, four-hundred forty-four dollars and fifty-three cents (\$464,444.53), with interest at the agreed upon default rate of interest of 10% per annum from September 11, 2022 to the date of collection, its costs, disbursements and attorneys' fees, the amount of which attorney's fees, if necessary, can be reserved and determined in a separate trial or hearing; and for such other and further

relief as this Court deems just and proper.

Dated: New York, New York
October 3, 2022

Tobias Law Firm, P.C.
Attorneys for Plaintiff
Spheyr, Inc.

By: 
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